



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

(703) 583-3800 Fax (703) 583-3821

www.deq.virginia.gov

Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

Thomas A. Faha
Regional Director

May 23, 2011

Mr. Edward Tucker
The Town of Warrenton
P.O. Box Drawer 341
Warrenton, Virginia 20188-0341

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Re: Virginia Water Protection (VWP) Individual Permit Number 06-0553
Town of Warrenton Recreation Center, Fauquier County, Virginia
Final Major Modification of VWP Individual Permit

Dear Mr. Tucker:

Pursuant to the VWP Permit Program Regulation 9 VAC 25-210-10 and § 401 of the Clean Water Act Amendments of 1977, Public Law 95-217, the Department of Environmental Quality has granted a Modification of the VWP individual permit for the "Town of Warrenton Recreation Center" project. The proposed project results in the permanent impact of no more than 0.10 acre (607 linear feet) of perennial stream channel in Fauquier County, Virginia.

In letters dated January 6, 2011 and February 22, 2011, Angler Environmental requested, on behalf of the permittee, requested a change in mitigation from off-site restoration to the purchase mitigation bank credits and to change six existing conditions as a result of changes in pond design.

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have **30 calendar days** from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a notice of appeal in accordance with the Rules of the Supreme Court of Virginia with the Director, Department of Environmental Quality. In the event that this decision is served on you by mail, three days are added to that period. Refer to Part 2A of the Rules of the Supreme Court of Virginia for additional requirements governing appeals from administrative agencies.

Alternatively, an owner may request a formal hearing for the formal taking of evidence upon relevant fact issues under Section 2.2-4020 of the Administrative Process Act. A petition for a formal hearing must

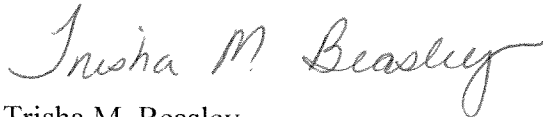
Mr. Edward Tucker
VWP Individual Permit No. 06-0553
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meet the requirements set forth in 9 VAC 25-230-130.B of the Virginia Administrative Code. In cases involving actions of the board, such petition must be filed within **30 calendar days** after notice of such action is sent to such owner by certified mail.

The work authorized by this VWP individual permit was also authorized under the Norfolk District, U.S. Army Corps of Engineers' State Program General Permit (07-SPGP-01). The 07-SPGP-01 has been modified to incorporate the revisions to the authorized activities.

If you have any questions, please contact Margaret Quigley at (703) 583-3892 or Margaret.Quigley@deq.virginia.gov.

Respectfully,

A handwritten signature in cursive script that reads "Trisha M. Beasley".

Trisha M. Beasley
Regional VWPP Program Manager

Enclosures: Permit Cover Page, Part I - Special Conditions, Part II - General Conditions, 07-SPGP-01

cc: Mr. Paul Pitera, Angler Environmental – VIA EMAIL
Mr. John Evans, U.S. Army Corps of Engineers, Norfolk Office – VIA EMAIL



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VWP Individual Permit Number 06-0553

Effective Date: July 29, 2008

Major Modification Effective Date: May 23, 2011

Expiration Date: July 28, 2023

VIRGINIA WATER PROTECTION PERMIT ISSUED PURSUANT TO THE STATE WATER CONTROL LAW AND SECTION 401 OF THE CLEAN WATER ACT

Based upon an examination of the information submitted by the owner, and in compliance with § 401 of the Clean Water Act as amended (33 USC 1341 et seq.) and the State Water Control Law and regulations adopted pursuant thereto, the State Water Control Board (board) has determined that there is a reasonable assurance that the activity authorized by this permit, if conducted in accordance with the conditions set forth herein, will protect instream beneficial uses and will not violate applicable water quality standards. The board finds that the effect of the impact, together with other existing or proposed impacts to surface waters, will not cause or contribute to a significant impairment to state waters or fish and wildlife resources.

Permittee: The Town of Warrenton

Address: P.O. Drawer 341, Warrenton, Virginia 20188-0341

Activity Location: The project is located along the north side of Lee Highway (U.S. Route 211), approximately 0.55 miles west of its intersection with West Shirley Avenue (U.S. Route 17) in Fauquier County, Virginia.

Activity Description: The purpose of the project is to construct a multi-use stormwater management, irrigation, and recreational pond associated with "Town of Warrenton Recreation Center" on a 65 acre parcel. The proposed activities will result in the permanent impact of no more than 0.10 acre (607 linear feet) of stream channel. A water withdrawal from the proposed pond for irrigation of athletic fields is also proposed. Stream channel losses shall be compensated the purchase of 668 stream credits from the Lakota Mitigation Bank, LLC in Culpeper County, Virginia or another DEQ approved mitigation bank within the same or an adjacent U.S.G.S Hydrologic Unit Code and within the same river watershed as the project site.

The permitted activity shall be in accordance with this Permit Cover Page, Part I - Special Conditions, and Part II - General Conditions.


Thomas A. Faha, Regional Director


Date

Part I – Special Conditions

Authorized Activities and Permit Term

A. Authorized Activities

1. This permit authorizes the permanent impact of no more than 0.10 acre (607 linear feet) of stream channel associated with the construction of a multi-use stormwater management, irrigation, and recreational pond. Water quality impacts are expected to be temporary and minimal provided the permittee abides by the conditions of the permit.
2. The permit authorizes the installation and operation of a water withdrawal from the proposed pond to irrigate athletic fields not to exceed a maximum withdrawal of 217 gallons per minute over a 24-hour period or 2.5 millions gallons per month for irrigation of athletic fields and in accordance with the DEQ approved Comprehensive Water Withdrawal Plan.
3. Authorized impacts to surface waters shall be as depicted on the impacts map entitled “In-line Pond Selected Alternative,” dated February 21, 2011 and indicated in the Joint Permit Application (JPA), dated March 8, 2006 and received March 10, 2006, and additional information received through April 22, 2008 and Major Modification requests dated January 6, 2011 and February 22, 2011 and additional information received through March 14, 2011.

B. Permit Term

1. This permit is valid for fifteen (15) years from the date of issuance. A new permit may be necessary for the continuance of the authorized activities or any permit requirement that has not been completed, including compensation provisions. The permit term shall not exceed 15 years.
2. The permittee shall notify DEQ in writing at least 120 calendar days prior to the expiration of this permit if reissuance of the permit is to be requested.

Project Construction at Impact Site

C. Standard Project Conditions

1. The activities authorized by this permit shall be executed in such a manner that any impacts to stream beneficial uses are minimized. As defined in § 62.1-10(b) of the Code, "beneficial use" means both instream and offstream uses. Instream beneficial uses include, but are not limited to, the protection of fish and wildlife habitat, maintenance of waste assimilation, recreation, navigation, and cultural and aesthetic values. Offstream beneficial uses include, but are not limited to, domestic (including public water supply), agricultural, electric power generation, commercial, and industrial uses. Public water supply uses for human consumption shall be considered the highest priority.

2. No activity shall substantially disrupt the movement of aquatic life indigenous to the water body, including those species that normally migrate through the area, unless the primary purpose of the activity is to impound water.
3. At crossings of streams, pipes and culverts less than 24 inches in diameter shall be countersunk a minimum of three inches, and pipes and culverts greater than 24 inches in diameter shall be countersunk a minimum of six inches to provide for the re-establishment of a natural stream bottom and to maintain a low flow channel. For multiple-celled culverts, only the bottoms of those cells situated below the limits of ordinary high water shall be countersunk. To the greatest extent practicable, other cells, pipes, or culverts shall be elevated to provide a natural distribution of flood flows. The requirement to countersink shall not apply to extensions or maintenance of existing culverts that are not countersunk, to floodplain culverts being placed above ordinary high water, to culverts being placed on bedrock, or to culverts required to be placed on slopes 5% or greater.
4. Flows downstream of the project area shall be maintained when the water elevation in the pond is above 474.00 feet above mean sea level to protect all uses.
5. No activity shall cause more than minimal adverse effect on navigation, and no activity shall block more than half of the width of the stream at any given time.
6. The activity shall not impede the passage of normal or expected high flows, and any associated structure shall withstand expected high flows.
7. Continuous flow of perennial springs shall be maintained by the installation of spring boxes, French drains, or other similar structures.
8. The permittee is required to abide by the following conditions as recommended by the Virginia Department of Game and Inland Fisheries (DGIF):
 - a. A flow by-pass, calibrated to release approximately 30 percent (0.15 cubic feet per second) of the estimated mean annual flow, shall be incorporated into the project design to ensure passage of flow downstream of the project site when the water elevation in the pond is above 474.00 feet above mean sea level to protect aquatic wildlife.
 - b. Water intake mesh screens with mesh openings of no larger than 1 millimeter (mm) shall be employed on all intakes so as to prevent entrainment of fish eggs and/or larvae.
 - c. The flow velocity through the mesh screen of the irrigation intakes shall not exceed 0.25 feet per second to prevent entrainment of fish eggs and/or larvae.
9. All excavation, dredging, or filling in surface waters shall be accomplished in a manner that minimizes bottom disturbance and turbidity. Turbidity levels downstream of the construction site shall not exceed turbidity levels upstream of the construction site at any time.

10. All in-stream activities shall be conducted during low-flow conditions whenever practicable.
11. All construction, construction access, and demolition activities associated with this project shall be accomplished in a manner that minimizes construction materials or waste materials from entering surface waters, unless authorized by this permit. Wet, excess, or waste concrete shall be prohibited from entering surface waters.
12. All fill material placed in surface waters shall be clean and free of contaminants in toxic concentrations or amounts in accordance with all applicable laws and regulations.
13. Measures shall be employed at all times to prevent and contain spills of fuels, lubricants, or other pollutants into surface waters.
14. Heavy equipment is authorized for use within the stream channel during project construction or stream restoration activities when site conditions prohibit access from the streambank. The equipment shall be stationed on cobble bars and the activities conducted in the dry or during low flow conditions, whenever possible.
15. Virginia Water Quality Standards shall not be violated in any surface waters as a result of the project activities.
16. All *non-impacted* wetlands, streams, and designated upland buffers that are within the project or right-of-way limits, and that are within fifty feet of any project activities, shall be clearly flagged or demarcated for the life of the construction activity within that area. All non-impacted open water areas within the project or right-of-way limits, and that are within fifty feet of any project activities, shall be clearly flagged or demarcated, as practicable, for the life of the construction activity within that area. The permittee shall notify all contractors and subcontractors that *no activities are to occur in these marked areas*.
17. All required notifications and submittals shall be submitted to the Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, Virginia 22193, to the attention of the VWP permit manager, unless directed in writing by DEQ subsequent to the issuance of this permit. Include the VWP Permit Number and Project Name on all submittals.
18. All reports required by this permit and other information requested by DEQ shall be signed by the permittee or a person acting in the permittee's behalf, with the authority to bind the permittee. A person is a duly authorized representative only if *both* criteria below are met. If a representative authorization is no longer valid because of a change in responsibility for the overall operation of the facility, a new authorization shall be immediately submitted to DEQ.
 - a. The authorization is made in writing by the permittee.
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager,

superintendent, or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position.

19. All submittals shall contain the following signed certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

20. Any fish kills or spills of fuels or oils shall be reported to DEQ immediately upon discovery at 1-703-583-3864. If DEQ cannot be reached, the spill shall be reported to the Virginia Department of Emergency Management (DEM) at 1-800-468-8892 or the National Response Center (NRC) at 1-800-424-8802.
21. DEQ shall be notified in writing within 24 hours or as soon as possible on the next business day when potential environmentally threatening conditions are encountered which require debris removal or involve potentially toxic substances. Measures to remove the obstruction, material, or toxic substance or to change the location of any structure are prohibited until approved by DEQ.
22. The permittee shall notify the DEQ prior to the taking of any additional impacts to surface waters, including wetlands and of any change to the type of surface water impacts associated with this project. Any additional impacts, modifications, or changes shall be subject to DEQ approval and/or modification of this permit. Compensation may be required.

D. Stream Modifications, Including Intake/Outfall Structures

1. Redistribution of existing stream substrate for erosion control purposes is prohibited.
2. Material removed from the stream bottom shall not be deposited into surface waters unless otherwise authorized as fill material in this permit.
3. For streambank protection activities, structures and backfill shall be placed as close to the streambank as practical, while still avoiding and minimizing impacts to vegetated wetlands to the maximum extent practical. No material shall be placed in excess of the minimum necessary for erosion protection.
4. Asphalt and materials containing asphalt or other toxic substances shall not be used in the construction of submerged sills, breakwaters, dams, or weirs.

5. If stream channelization or relocation is required, all work in surface waters shall be done in the dry, unless authorized by this permit, and all flows shall be diverted around the channelization or relocation area until the new channel is stabilized. The diversion shall be accomplished by leaving a plug at the inlet and outlet ends of the new channel during excavation. Once the new channel has been stabilized, flow shall be routed into the new channel by first removing the downstream plug and then the upstream plug. The new stream channel shall be constructed following the typical sections submitted with the application and should incorporate natural stream channel design principles to the greatest extent practicable. A low flow channel shall be constructed within the channelized or relocated area. The centerline of the channel shall meander, to the extent possible, to mimic natural stream morphology. The rerouted stream flow shall be fully established before construction activities in the old streambed can begin.

E. *Road Crossings*

1. Access roads authorized by this permit shall be constructed to minimize the adverse effects on surface waters to the maximum extent practicable and to follow as near as possible pre-construction contours and elevations. Bridges or culverts, when located above the pre-construction contours and elevations in surface waters, shall be installed.
2. Installation of pipes and road crossings shall occur in the dry via the implementation of cofferdams, sheetpiling, stream diversions or other similar structures.
3. Stream bottom elevations at road crossings shall be measured at the inlet and outlet of the proposed structure and recorded prior to construction and within one week after the completion of construction to ensure that the design elevations were met. This information shall be available for review by DEQ upon request.
4. At crossings of streams, pipes and culverts less than 24 inches in diameter shall be countersunk a minimum of three inches, and pipes and culverts greater than 24 inches in diameter shall be countersunk a minimum of six inches to provide for the re-establishment of a natural stream bottom and to maintain a low flow channel. For multiple-celled culverts, only the bottoms of those cells situated below the limits of ordinary high water shall be countersunk. To the greatest extent practicable, other cells, pipes, or culverts shall be elevated to provide a natural distribution of flood flows. The requirement to countersink shall not apply to extensions or maintenance of existing culverts that are not countersunk, to floodplain culverts being placed above ordinary high water, to culverts being placed on bedrock, or to culverts required to be placed on slopes 5% or greater.

F. *Stormwater Management Structures*

1. The outfall and overflow structure shall be constructed and maintained to prevent downstream sediment deposition, erosion, or scour that may be associated with normal flow and any expected storm flows. Construction shall include the use of an appropriately sized riprap outlet protection apron at the outfall site.

2. A copy of the stormwater management maintenance plan shall be submitted to the DEQ for each stormwater management facility authorized by the permit. Maintenance excavation shall follow the approved maintenance plan, and shall not exceed the original contours of the facility as constructed.
3. Compensation for unavoidable impacts shall not be allowed within maintenance areas of stormwater management facilities.
4. Maintenance within stormwater management facilities will not require compensation provided that the maintenance is accomplished in designated maintenance areas as indicated in the stormwater management maintenance plan.
5. Draining of a stormwater management facility shall be performed by a method that prevents downstream sediment deposition, erosion, or scour.

G. *Pond Construction and Maintenance*

1. The outfall and overflow structure shall be constructed and maintained to prevent downstream sediment deposition, erosion, or scour that may be associated with normal flow and any expected storm flows. Construction shall include the use of an appropriately sized riprap outlet protection apron at the outfall site.
2. The permittee shall maintain the hydrology downstream of the pond during the initial filling of the pond following construction by allowing, at a minimum, thirty percent of the estimated mean annual flow to be by-passed.
3. The permittee shall submit a final pond habitat design plan to DEQ for review and approval prior to construction of the pond. The final plan shall also be submitted to DGIF for their review.
4. The permittee shall submit to DEQ a water quality monitoring plan prior to construction of the pond.
5. The permittee shall plant a vegetative buffer around the pond in accordance with the "Conceptual Pond Buffer Plan" dated April 18, 2008 and received April 24, 2008 or the most recent DEQ approved plan.
6. The permittee shall submit the final design of the minimum in-stream flow by-pass structure and specifications to DEQ prior to initiation of surface water withdrawal activities.

H. *Athletic Field Management*

1. The application of fertilizers, herbicides, insecticides, fungicides, and other pesticides shall be prohibited within the buffer zone, which shall be a minimum of 20 feet from the boundary of

the pond and perennial stream channel, unless otherwise approved by DEQ for the control of invasive species.

2. The permittee shall submit an integrated management plan that discusses the management of the athletic fields. The plan shall include, at a minimum, frequency and amount of the application of fertilizers, herbicides, insecticides, fungicides, and other pesticides and a map depicting the buffer zone around the pond and perennial stream channel. The plan shall be submitted to DEQ prior to construction of the pond.

I. *Surface Water Withdrawals*

1. Water withdrawal shall be for the sole purpose of irrigation of athletic fields.
2. The irrigation intake pipes shall be set at a water elevation that is two (2) inches higher than 474.00 feet above mean sea level.
3. No water withdrawal activities shall occur when the water elevation of the pond is below 474.00 feet above mean sea level.
4. To prevent the impingement and entrainment of fish eggs, larvae, and other aquatic life, the intake screens shall be so designed such that the screen openings shall be no larger than 1 mm in width and the screen intake velocities no greater than 0.25 feet per second.
5. A Comprehensive Water Withdrawal Plan shall be submitted to DEQ prior to initiation of surface water withdrawal activities. Water withdrawal shall not be initiated prior to the permittee's receipt of written approval of the Comprehensive Water Withdrawal Plan from DEQ. The Comprehensive Water Withdrawal Plan shall include the following information at a minimum:
 - a. A map depicting the location where the water withdrawal shall be taken, including pumps, housing, and all other pertinent structures.
 - b. A map depicting the project area, which calls out areas (athletic fields) where the withdrawn water shall provide irrigation. The map shall also include all irrigation conveyance structures, including applicable pipes, pumps, and sprinkler head locations. Area of maximum water dispersal about each sprinkler head shall be depicted.
 - c. Close-ups of the intake apparatus, including details on mesh screening and vertical/horizontal positioning within the pond.
 - d. Estimates of projected water withdrawal amounts, including average monthly withdrawal amounts throughout the year and maximum projected withdrawal amounts over a given 24-hour period in gallons per minute.

- e. All data pertaining to projected withdrawal amounts, including stream flow studies, pond water budget, climatic data, turfgrass watering demands, and all suitable justifications and assumptions.
 - f. An Emergency Drought Management Plan that addresses the management of irrigation during times of drought, including, at a minimum,
 - i. How drought conditions will be assessed for the project site,
 - ii. How minimum downstream flows will be preserved, and
 - iii. Corrective measures that will be taken if withdrawal activities are adversely affecting water quality.
 - g. The procedure and analytic methods that will be employed to collect and analyze the data.
 - h. A prediction of what changes are anticipated in the ambient Water Quality Conditions.
6. On each day that pumping occurs, the permittee must monitor and record the following, for each pump:
- a. the date;
 - b. the time;
 - c. the identity(-ies) of the pump operator(s) and data recorder(s);
 - d. the time the pump was turned on and off;
 - e. the rate in gallons per minute at which the pump was being operated; and
 - f. the actual hours of operation.
7. All records and information that result from the monitoring and reporting activities required by this permit, including any records of maintenance activities to the withdrawal system, shall be retained for the life of the permit. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or as requested by the State Water Control Board.
8. *For all permittees whose average daily withdrawal during any single month exceeds 10,000 gallons per day*, the water withdrawals shall be reported to DEQ by January 31st of the next year, as required under State Water Control Board (SWCB) Water Withdrawal Reporting Regulation (9 VAC 25-200 et seq.). The annual monitoring report shall contain the following information: the permittee's name and address, the sources and locations of water withdrawal,

the cumulative volume of water withdrawn each month of the calendar year, the maximum day withdrawal and the month in which it occurred, and the method of withdrawal measurement.

J. *Project Construction Monitoring and Submittals (Impact Site)*

Pre-Construction Monitoring – Impact Areas

1. The permittee shall conduct photographic monitoring of pre-construction conditions for all of the permitted permanent and temporary impact areas covered by this permit. Photographic monitoring shall be conducted by the following method:

Enumerated photo stations shall be established at each permitted impact area that shall be used for the duration of construction activities. The directional orientation of each photo station shall remain constant during all monitoring events. Photo stations shall be sufficient to represent permitted activities. Photo stations may be established via water craft or temporary floating structures. Photo stations shall be cited and labeled on a site impact plan map. Each photograph taken shall be labeled with the permit number, the permitted impact area, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. This information shall be provided as a separate attachment to each photograph, if necessary. Each photo station shall be represented on the project's wetland impact site plan.

Pre-Construction Submittals – Impact Areas

2. Construction in authorized impact areas shall be performed in accordance with the "In-line Pond Selected Alternative," dated February 21, 2011, or the most recent DEQ-approved revision in effect at the time of construction. Any changes to the final construction plans that affect permitted areas shall be submitted to DEQ immediately upon determination that changes are necessary. DEQ approval shall be required prior to implementing the changes.
3. The permittee shall submit written notification at least ten (10) calendar days prior to the initiation of land disturbance or construction activities in permitted areas. The notification shall include a projected schedule for initiating and completing work at each permitted impact area.
4. All required notifications and submittals shall be in accordance with Part I.C., 17-19.

Monitoring During Construction – Impact Areas

5. The permittee shall conduct photographic monitoring of construction activities to document that the permitted activities are in compliance with permit conditions, and to document any events that are not in compliance with the construction-related permit conditions. The permittee shall use the same photo method and location that was used for pre-construction monitoring.

6. Photographic monitoring during activities in each permitted impact area shall be required quarterly. No additional photographs shall be required for a given impact area after the impacts are completed and/or stabilized, as applicable.
7. Construction photographic data shall be submitted with construction monitoring reports as detailed in Part I.J.8.

Construction Monitoring Reports – Impact Areas

8. Construction Monitoring Reports shall be submitted to DEQ semiannually. The reports shall be submitted by the 10th calendar day of the month after the semiannual period in which monitoring takes place. The reports shall include the following, as appropriate:
 - a. a written narrative stating whether or not work was performed during the monitoring period in each permitted impact area. If work was performed, the narrative shall include a description of the work performed, when the work was initiated, and the expected date of completion;
 - b. a summary of activities conducted to comply with the permit conditions, including items associated with meeting specific permit conditions and a description of erosion and sediment controls used to protect water quality and any maintenance performed on the controls;
 - c. a written summary, including photographs, of non-compliance events or problems encountered, any corrective actions taken, and any subsequent notifications to DEQ;
 - d. a summary of anticipated work to be completed during the next reporting period, and an estimated date of construction completion at all permitted impact areas;
 - e. a labeled site map depicting all permitted impact areas and photo stations; and.
 - f. properly labeled photographs, including those documenting the completed restoration of temporarily disturbed surface waters. The first construction monitoring report shall also include the photographs taken at each permitted impact area prior to initiation of land disturbance or construction activities in that area.
9. All required notifications and submittals shall be in accordance with Part I.C., 17-19.

Post Construction Monitoring – Impact Areas

10. The permittee shall conduct photographic monitoring of all permitted impact areas upon completion of construction and stabilization of the area. The permittee shall use the same photo method and location that was used for pre-construction monitoring.

Post-Construction Submittals – Impact Areas

11. The Final Construction Monitoring Report containing the post-construction photographs of permitted impact areas shall be submitted within 60 calendar days of completing the entire construction project.
12. The permittee shall submit an annual photograph documenting the conditions at each temporarily disturbed surface water area.
13. The permittee shall submit written notification within 30 calendar days after the completion of all activities in all permitted impact areas authorized under this permit.
14. All required notifications and submittals shall be in accordance with Part I.C., 17-19.

Compensation for Surface Water Impacts

K. *Compensatory Mitigation*

1. Compensation for permanent impacts to 0.10 acre (607 linear feet) of stream channel shall be provided through the purchase of 668 stream credits from the Lakota Mitigation Bank, LLC in Culpeper County, Virginia LLC or another DEQ approved mitigation bank within the same or an adjacent U.S.G.S Hydrologic Unit Code and within the same river watershed as the project site. Documentation that the Lakota Mitigation Bank, LLC or another DEQ approved mitigation bank within the same or an adjacent U.S.G.S Hydrologic Unit Code and within the same river watershed as the project site, has debited the required mitigation credits from the mitigation bank ledger shall be submitted to and received by DEQ prior to initiating work in permitted impact areas.
3. All required notifications and submittals shall be submitted to Department of Environment Quality-Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, to the attention of the VWP permit manager, unless directed in writing by DEQ subsequent to the issuance of this permit.

Part II – General Conditions

A. Duty to Comply

The permittee shall comply with all conditions of the VWP permit. Nothing in the VWP permit regulations shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations and prohibitions. Any VWP permit violation is a violation of the law, and is grounds for enforcement action, VWP permit termination, revocation, modification, or denial of an application for a VWP permit extension or reissuance.

B. Duty to Cease or Confine Activity

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the activity for which a VWP permit has been granted in order to maintain compliance with the conditions of the VWP permit.

C. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any impacts in violation of the permit which may have a reasonable likelihood of adversely affecting human health or the environment.

D. VWP Permit Action

1. A VWP permit may be modified, revoked and reissued, or terminated as set forth in 9 VAC 25-210 et seq.
2. If a permittee files a request for VWP permit modification, revocation, or termination, or files a notification of planned changes, or anticipated noncompliance, the VWP permit terms and conditions shall remain effective until the request is acted upon by the board. This provision shall not be used to extend the expiration date of the effective VWP permit. If the permittee wishes to continue an activity regulated by the VWP permit after the expiration date of the VWP permit, the permittee must apply for and obtain a new VWP permit or comply with the provisions of 9 VAC 25-210-185 (VWP Permit Extension).
3. VWP permits may be modified, revoked and reissued or terminated upon the request of the permittee or other person at the board's discretion, or upon board initiative to reflect the requirements of any changes in the statutes or regulations, or as a result of VWP permit noncompliance as indicated in the Duty to Comply subsection above, or for other reasons listed in 9 VAC 25-210-180 (Rules for Modification, Revocation and Reissuance, and Termination of VWP permits).

E. Inspection and Entry

Upon presentation of credentials, any duly authorized agent of the board may, at reasonable times and under reasonable circumstances:

1. Enter upon any permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the VWP permit conditions;
2. Inspect any facilities, operations, or practices (including monitoring and control equipment) regulated or required under the VWP permit, and
3. Sample or monitor any substance, parameter, or activity for the purpose of ensuring compliance with the conditions of the VWP permit or as otherwise authorized by law.

F. Duty to Provide Information

1. The permittee shall furnish to the board any information which the board may request to determine whether cause exists for modifying, revoking, reissuing, or terminating the VWP permit, or to determine compliance with the VWP permit. The permittee shall also furnish to the board, upon request, copies of records required to be kept by the permittee.
2. Plans, specifications, maps, conceptual reports, and other relevant information shall be submitted as required by the board prior to commencing construction.

G. Monitoring and Records Requirements

1. Monitoring of parameters, other than pollutants, shall be conducted according to approved analytical methods as specified in the VWP permit. Analysis of pollutants will be conducted according to 40 CFR Part 136 (2000), Guidelines Establishing Test Procedures for the Analysis of Pollutants.
2. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
3. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart or electronic recordings for continuous monitoring instrumentation, copies of all reports required by the VWP permit, and records of all data used to complete the application for the VWP permit, for a period of at least three years from the date of the expiration of a granted VWP permit. This period may be extended by request of the board at any time.

4. Records of monitoring information shall include:
 - a. The date, exact place and time of sampling or measurements;
 - b. The name of the individuals who performed the sampling or measurements;
 - c. The date and time the analyses were performed;
 - d. The name of the individuals who performed the analyses;
 - e. The analytical techniques or methods supporting the information such as observations, readings, calculations, and bench data used;
 - f. The results of such analyses; and
 - g. Chain of custody documentation.

H. Transferability

This VWP permit may be transferred to a new permittee only by modification to reflect the transfer, by revoking and reissuing the permit, or by automatic transfer. Automatic transfer to a new permittee shall occur if:

1. The current permittee notifies the board within 30 days of the proposed transfer of the title to the facility or property;
2. The notice to the board includes a written agreement between the existing and proposed permittee containing a specific date of transfer of VWP permit responsibility, coverage and liability to the new permittee, or that the existing permittee will retain such responsibility, coverage, or liability, including liability for compliance with the requirements of any enforcement activities related to the permitted activity; and
3. The board does not within the 30-day time period notify the existing permittee and the new permittee of its intent to modify or revoke and reissue the VWP permit.

I. Property rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize injury to private property or any invasion of personal rights or any infringement of federal, state, or local law or regulation.

J. Reopener

Each VWP permit shall have a condition allowing the reopening of the VWP permit for the purpose of modifying the conditions of the VWP permit to meet new regulatory standards duly adopted by the board. Cause for reopening VWP permits includes, but is not limited to when the circumstances on which the previous VWP permit was based have materially and substantially changed, or special studies conducted by the board or the permittee show material and substantial change, since the time the VWP permit was issued and thereby constitute cause for VWP permit modification or revocation and reissuance.

K. Compliance with State and Federal Law

Compliance with this VWP permit constitutes compliance with the VWP permit requirements of the State Water Control Law. Nothing in this VWP permit shall be construed to preclude the institution of any legal action under or relieve the permittee from any responsibilities, liabilities, or other penalties established pursuant to any other state law or regulation or under the authority preserved by § 510 of the Clean Water Act.

L. Severability

The provisions of this VWP permit are severable.

M. Permit Modification

A VWP permit may be modified, but not revoked and reissued except when the permittee agrees or requests, when any of the following developments occur:

1. When additions or alterations have been made to the affected facility or activity which require the application of VWP permit conditions that differ from those of the existing VWP permit or are absent from it;
2. When new information becomes available about the operation or activity covered by the VWP permit which was not available at VWP permit issuance and would have justified the application of different VWP permit conditions at the time of VWP permit issuance;
3. When a change is made in the promulgated standards or regulations on which the VWP permit was based;
4. When it becomes necessary to change final dates in schedules due to circumstances over which the permittee has little or no control such as acts of God, materials shortages, etc. However, in no case may a compliance schedule be modified to extend beyond any applicable statutory deadline of the Act;
5. When changes occur which are subject to "reopener clauses" in the VWP permit; or
6. When the board determines that minimum instream flow levels resulting from the permittee's withdrawal of water are detrimental to the instream beneficial use and the withdrawal of water should be subject to further net limitations or when an area is declared a Surface Water Management Area pursuant to §§ 62.1-242 through 62.1-253 of the Code of Virginia, during the term of the VWP permit.

N. Permit Termination

After notice and opportunity for a formal hearing pursuant to Procedural Rule No. 1 (9 VAC 25-230-100) a VWP permit can be terminated for cause. Causes for termination are as follows:

1. Noncompliance by the permittee with any condition of the VWP permit;
2. The permittee's failure in the application or during the VWP permit issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time;
3. The permittee's violation of a special or judicial order;
4. A determination by the board that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by VWP permit modification or termination;
5. A change in any condition that requires either a temporary or permanent reduction or elimination of any activity controlled by the VWP permit; and
6. A determination that the permitted activity has ceased and that the compensatory mitigation for unavoidable adverse impacts has been successfully completed.

O. Civil and Criminal Liability

Nothing in this VWP permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and Hazardous Substance Liability

Nothing in this VWP permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Clean Water Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Unauthorized Discharge of Pollutants

Except in compliance with this VWP permit, it shall be unlawful for the permittee to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances;
2. Excavate in a wetland;

3. Otherwise alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, to animal or aquatic life, to the uses of such waters for domestic or industrial consumption, for recreation, or for other uses.
4. On or after October 1, 2001 conduct the following activities in a wetland:
 - a. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;
 - b. Filling or dumping;
 - c. Permanent flooding or impounding; and
 - d. New activities that cause significant alteration or degradation of existing wetland acreage or functions.

R. Permit Extension

Any permittee with an effective VWP permit for an activity that is expected to continue after the expiration date of the VWP permit, without any change in the activity authorized by the VWP permit, shall submit written notification request if an extension. The permittee must file the request prior to the expiration date of the VWP permit. Under no circumstances will the extension be granted for more than 15 years beyond the original effective date of the VWP permit. If the request for extension is denied, the VWP permit will still expire on its original date and, therefore, care should be taken to allow for sufficient time for the board to evaluate the extension request and to process a full VWP permit modification, if required.